

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW JERSEY

H. SCOTT GURVEY and
AMY R. GURVEY,

Plaintiffs Pro Se,

vs.

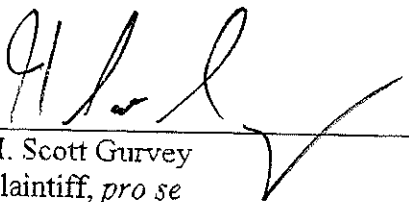
FLXZIT™ NATIONAL INSTALL
SERVICES, INC. an Ohio corporation,
STEVE LEVI,
JOSEPH M. RUTKOSKI Sr.,
JIM LAMBERTI HEATING,
ELECTRICAL & AIR CONDITIONING,
JIM LAMBERTI, an individual,
and DOES 1-X, Inclusive,

Defendants.

CIVIL ACTION NO.: 06-CV-1779 (DRD)

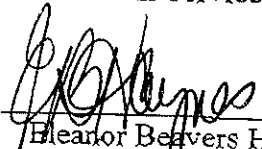
**STIPULATION OF DISMISSAL WITH
PREJUDICE AS TO FIXZIT NATIONAL
INSTALL SERVICES, INC.**

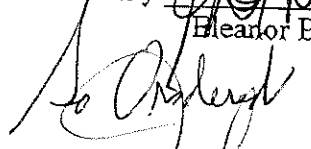
The undersigned hereby stipulate that they have entered into a
"Settlement/Dismissal Agreement and Mutual Release of Claims" incorporated herein
and attached as **Exhibit 1**, to amicably resolve the within matter; that the parties have
signed that agreement; and that pursuant to that agreement the above captioned matter is
dismissed with prejudice and without costs as to defendant Fixzit National Install
Services, Inc.


H. Scott Gurvey
Plaintiff, *pro se*

Dated: March 5, 2008

HAYNES AND HAYNES
Attorneys for Defendant Fixzit
National Install Services, Inc.

By 
Eleanor Beavers Haynes, Esq.


William F. Ashburn
3/11/08

CS526

Exhibit 1

STATE OF OHIO
COUNTY OF FRANKLIN
CITY OF COLUMBUS

**GURVEY/FIXZIT
SETTLEMENT/DISMISSAL AGREEMENT AND
MUTUAL RELEASE OF CLAIMS**

FOR AND IN CONSIDERATION OF THE agreements set forth herein below, the receipt and sufficiency of which is hereby acknowledged as adequate, valuable and acceptable **Amy R. Gurvey and H. Scott Gurvey**, (hereinafter referred to as **the Gurvey's**), and **Steven Levi, Kelley Jo Levi and Fixzit National Install Services, Inc.**, and their heirs, executors, administrators, successors and assigns (hereinafter collectively referred to as **Fixzit, et al**), do hereby mutually release each other, from any and all claims, demands, actions, causes of action, suits, damages, losses and expenses of any and every nature whatsoever, seen or unforeseen, now and forever, including, but not limited to, those claims as listed in any complaint previously filed against **Fixzit, et al**, in New Jersey, in a case Captioned *H. Scott Gurvey, et al vs. Fixzit National Install Services, Inc., et al*, 06-1779 (DRD), (hereinafter referred to as **Gurvey vs. Fixzit, et al**), the Fixzit Chapter 11, case no. 02-59858 and the Chapter 7, case no. 03-64918 for Steven & Kelley Jo Levi, respectively filed or pending in the United States Bankruptcy Court, Southern District of Ohio, Eastern Division.

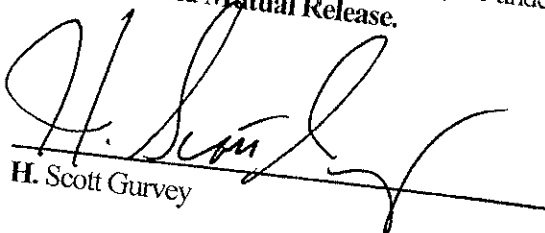
1. This Settlement Agreement and Mutual Release of Claims specifically includes, but not by way of limitation, all claims asserted by or on behalf of **the Gurvey's against Fixzit et al**, together with any and all claims which might have been asserted by or on behalf of **the Gurvey's** in the Case of *Gurvey vs. Fixzit et al*, Fixzit National *Install Services, Inc., Chapter 11, case 02-59858, and Steven and Kelly Jo Levi, Chapter 7, case 03-64918.

2. It is understood and acknowledged that this Settlement and Mutual Release is made and executed in settlement and in compromise of disputed claim(s) relating to any and all services performed or unperformed by **Fixzit, et al** under a service contract for HVAC services, dated April 27, 2002 and May 15, 2002 and any extensions thereof. This settlement is in no way considered as an admission of any liability, or violation of any laws by **Fixzit, et al**.
3. It is further understood and agreed that for the same consideration as set out herein any complaint pending before any judicial, administrative or other body authorized to adjudicate or resolve this matter is disposed of by this Settlement Agreement and Mutual Release approved by the named parties. And any approval from any judicial, administrative, or other adjudicating body will be obtained by **Fixzit, et al** in the Ohio Cases and **the Gurvey's** in the New Jersey Case. Each party agrees they are responsible for any Court costs and attorney's fees in the respective cases.
4. The terms of this Settlement and Mutual Release are contractual and not a mere recital, and there are no other agreements or representations made by either party, its agents, assigns, successors or representatives except as expressly stated herein. The parties further agree that the terms of the settlement and release are confidential.
5. It is further agreed that the Gurveys may proceed against the other DNJ Defendants including John and/or Mary DOES Defendants for **their** claims and damages including Joseph M. Rutkoski, Sr., Jim Lamberti Heating and Air Conditioning, Inc., Jim Lamberti, and Paul Hanley that FNIS assigned to the job.
6. Upon the execution by the Gurvey's of the Settlement Agreement, Mutual Release and the Dismissal with prejudice in the **Gurvey vs. Fixzit et al** case, and submission of said documents to NJ Counsel for Fixzit, Mr. Bruce Levitt, **Fixzit, et al** will promptly pay to **the Gurvey's** by certified check, \$12,500.00. Further, Fixzit shall pay \$1,000 in the 30 days following the initial payment and a final payment of \$1,634.47 to be paid no later than 30 days following the second payment. The dismissal with prejudice in the District Court of New Jersey shall be filed upon receipt of the third and final payment.

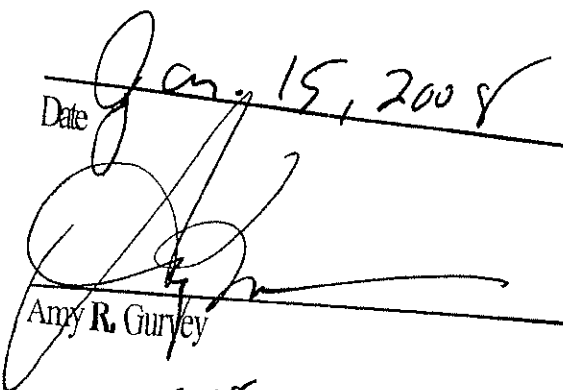
7. The undersigned parties affirm the only consideration for their signing this Mutual Release are the terms stated above; that no other promise or agreement of any kind has been made to or with them by any persons or entity whomsoever to cause them to execute this instrument, and that they fully understand the meaning and intent of this Mutual Release and Dismissal, including but not limited to its final and binding effect. The parties warrant they have been advised to obtain Counsel and have had the opportunity to consult with an attorney about this Mutual Release and any Dismissal of the underlying cases. The parties warrant, before executing this Mutual Release, they have either sought Counsel, or decided to sign this agreement of their own volition and understand the legal effect of executing this document.
8. Any disputes relating to this Mutual Release shall be governed by the law of the State of New Jersey. Any action brought by either party regarding this Mutual Release shall be brought in the State of New Jersey.

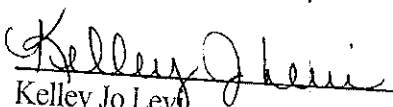
THE UNDERSIGNED FURTHER STATE THEY HAVE CAREFULLY READ THE WITHIN AND FOREGOING "SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS" AND KNOW AND UNDERSTAND THE BINDING EFFECT OF THE CONTENTS THEREOF AND THEY EXECUTE THE SAME AS THEIR OWN FREE ACT AND DEED.

IN WITNESS WHEREOF, the undersigned have hereunto executed said Settlement Agreement and Mutual Release.


H. Scott Gurvey


Steven Levi


Date Jan 15, 2008


Date 2/28/08

Amy R. Gurvey

Kelley Jo Levi

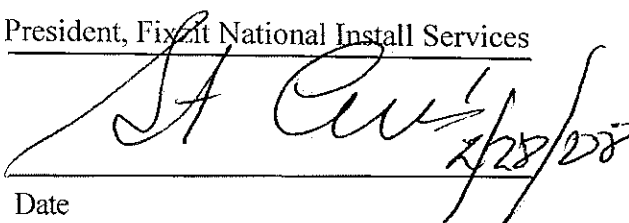
1-15-08

2/28/08

Date

Date

President, Fixit National Install Services


Date 2/28/08

CERTIFICATE OF SERVICE

H. Scott Gurvey, the Plaintiff Pro Se herein and over the age of 18, certifies that on March 6, 2008 he served a true and accurate copy of the within Stipulation of Dismissal with Prejudice as to Fixzit National Install Services, Inc., upon attorneys for defendants or defendants as the case may be by depositing a true and accurate copy of same, postage prepaid, in a mailbox duly maintained by the US Postal Service.

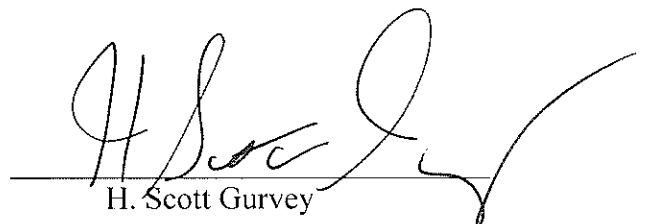
The envelopes were addressed as follows:

Haydn J. Brill
111 Broadway Suite 810
New York, NY 10006

Joseph M. Rutkoski, Sr.
9 Smythe Street
Sugar Notch, PA 18706

Mr. Steve Levi
Fixzit National Install Services
807 Parsons Avenue
Columbus, Ohio 43206

RECEIVED-CLERK
U.S. DISTRICT COURT
2008 MAR 10 P 2:44



H. Scott Gurvey